

JAN 28 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SAMUEL VENEGAS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75645

Agency No. A76-915-651

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Samuel Venegas, a native and citizen of Nicaragua, petitions for review of a Board of Immigration Appeals' order that adopted and affirmed an Immigration Judge's ("IJ") order denying his claims for asylum, withholding of removal, and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination, because Venegas’ testimony and his asylum application were inconsistent regarding the harm he suffered in Nicaragua, and this inconsistency relates to the basis of his fear of future persecution and goes to the heart of his asylum claim. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001); *see also Alvarez-Santos v. INS*, 332 F.3d 1245, 1254 (9th Cir. 2003). Moreover, Venegas was afforded an opportunity to explain the inconsistency, and the IJ rejected Venegas’ explanation. *Cf. Singh v. Gonzales*, 439 F.3d 1100, 1105 (9th Cir. 2006). Accordingly, Venegas’ asylum claim fails.

Because Venegas failed to meet the lower standard of proof required to establish eligibility for asylum, he necessarily failed to show that he is entitled to withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Venegas waived any challenge to the denial of CAT relief, because he did not argue this claim in his opening brief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.